

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL B. MOSLEY,

Plaintiff,

v.

DR. UNKNOWN FATOKI, et al.,

Defendants.

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No. 4:17CV00017 ERW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Michael B. Mosley's Amended Motion to Change and Add to Prisoner Civil Rights Complaint under 42 U.S.C. § 1983 [ECF No. 34], Plaintiff's Motion to Compel Discovery [ECF No. 35], and Plaintiff's Motion to Amend [ECF No. 43].

Plaintiff Michael B. Mosley ("Plaintiff") initiated this lawsuit by filing a complaint in this Court on January 5, 2017, against Defendants Dr. Fatoki, Deputy Lisa Miller, Melissa Unknown, and Barbara Odem ("Defendants"). On January 27, 2017, the Court held this matter in abeyance as it relates to Defendant Melissa Unknown until Plaintiff had a chance to learn her name through discovery.

In his Amended Motion to Change and Add to Prisoner Civil Rights Complaint under 42 U.S.C. § 1983 [ECF No. 34], Plaintiff asks the Court to make the following changes to his complaint. First, Plaintiff would like to add an allegation, on November 20, 2016, the lack of treatment caused a deterioration of the teeth as shown in the exhibit attached to this complaint. Second, he would like to change the abbreviation "IP" to ibuprofen, a type of pain medication. Third, he would like to change the abbreviation "MRS" to "MSR" which is the standard meaning

for medical service request. Finally, he would like to change the complaint so the doctor mentioned throughout is Dr. Fatoki. Defendant Fatoki objects to these changes because Plaintiff did not attach an amended complaint and it will be impossible to know what the controlling claims in this matter are.

The Court will permit Plaintiff to amend his complaint as suggested in his motion. Most of Plaintiff's changes are minor and could be made by lineation. However, the allegation he would like to add about the deterioration of his teeth will require an answer from Defendants. Therefore, Plaintiff must file an amended complaint, containing all of his allegations. Plaintiff shall file his amended complaint within twenty-one days of this order.

In his Motion to Compel [ECF No. 35], Plaintiff asks the Court to authorize discovery in support of his complaint. Specifically, he states Defendants have failed to provide requested documents such as copies of his medical service request and medical records. Defendant Fatoki responded he does not have any documents relevant to the facts of the case in his custody or control because he is an independent contractor. The remaining defendants did not respond to the motion to compel. The Court cannot compel Defendant Fatoki to produce records he does not have in his custody and control. When propounding discovery, Plaintiff must adhere to the Federal Rules of Civil Procedure. The remaining defendants shall produce to Plaintiff the documents he has requested in his discovery, if those documents are in their custody and control. The Court will grant, in part, and deny, in part, Plaintiff's motion to compel.

In his Motion to Amend [43], Plaintiff has supplied the Court with the name and address of Defendant Melissa Plunkett, previously listed as Melissa Unknown. This matter was previously held in abeyance as to Defendant Melissa Unknown until Plaintiff could discover her name and address. The Court will grant Plaintiff's Motion to Amend as to the name and address

of Defendant Melissa Plunkett. The Clerk of the Court shall issue process on Defendant Melissa Plunkett.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Michael B. Mosley's Amended Motion to Change and Add to Prisoner Civil Rights Complaint under 42 U.S.C. § 1983 [ECF No. 34] is **GRANTED**. Plaintiff shall file an amended complaint within twenty-one days of this order.

IT IS FURTHER ORDERED that Plaintiff's Motion to Compel Discovery [ECF No. 35] is **GRANTED, in part**, and **DENIED, in part**.

Plaintiff's Motion to Amend [ECF No. 43] is **GRANTED**. The Clerk of the Court shall issue process on Defendant Melissa Plunkett.

Dated this 23rd Day of August, 2017.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE